

Internal Revenue Service

Department of the Treasury

**District
Director**

Date: **JAN 25 1995**

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Applicant:

We have completed our consideration of your application for exemption under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) or section 501(c)(7).

You are an unincorporated association that was formed in [REDACTED]. The Charter for Local Chapters that was granted by [REDACTED] is the operating policy for the chapter. It states that your purpose is to promote responsible motorcycling activities for [REDACTED] members by conducting chapter activities and encouraging participation in other [REDACTED] events while maintaining a family-oriented philosophy.

According to your application, your main activity is to plan and conduct statewide rallies of [REDACTED] members. The rallies will consist of the following social activities: motorcycle shows, food, local riding tours, family entertainment, riding games, etc.

Your membership is open to any individual who is a member of [REDACTED] and who owns a [REDACTED] motorcycle. Membership dues for your organization are \$[REDACTED]. If a member allows his or her membership with [REDACTED] to expire, he or she will automatically be excluded from membership in your organization. A sponsoring dealer may suspend the membership of any person whose conduct is undesirable.

Your charter states that [REDACTED], a division of [REDACTED], is the governing body for all [REDACTED] chapters. Each chapter is a separate and independent organization providing services to their chapter members on a "not-for-profit" basis. Each chapter must be approved by [REDACTED], adhere to the charter granted by [REDACTED], and be sponsored by an authorized [REDACTED] dealer. If, at any time, [REDACTED] determines that a chapter is not adhering to the charter, the recognition of a chapter may be rescinded. Dealers also may rescind the sponsorship of their chapter. It further states that the dealer can serve as one or more of the officers of the organization, choose how officers are selected, and determine how long officers will serve. T-shirts, pins and all other items that use the [REDACTED] name, logo or trademark are only to be produced by authorized licensees of [REDACTED] and must be purchased through the sponsoring dealer or from [REDACTED]. It states that the sponsoring dealer and the [REDACTED] office must approve any chapter by-laws and that the charter supersedes chapter by-laws.

You state that a [REDACTED] representative is present during the event to provide management advice.

Gross receipts will be from membership dues and registration fees from members.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, *** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(c)(1) Primary activities. An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Revenue Ruling 66-360, 1966-2 C.B. 228, found that an organization that is created and controlled by a business corporation engaged in furnishing services to charter members is organized to serve the financial interests of the business corporation and does not qualify for exemption under IRC section 501(c)(7). The stated purpose of the organization was for the study and mutual pursuit of culture and social contact. The organization granted the founding business corporation the right to select all members of its governing body. The governing body which was controlled by the business corporation established the dues for participation in the national organization which was required of all members, issued charters for new chapters, and approves bylaws of all chapters. The business corporation provided supplies and administrative services in return for initiation fees and annual dues. All members must pay annual dues to the business corporation; failure to pay could result in loss of membership privileges. The ruling stated that the organization was not

organized or operated by members exclusively for pleasure, recreation, and other nonprofit purposes.

Like the organization described in Revenue Ruling 66-360, [REDACTED], a for-profit business corporation, exercises extensive control over your organization by requiring you to follow the charter that it developed. This charter requires a dealer to sponsor your organization and gives that dealer authority to control the local board and withdraw membership privileges. It states that [REDACTED] a division of [REDACTED], is the governing body. It requires that chapter bylaws receive approval by [REDACTED] before implementation. It requires that members pay dues to [REDACTED] and that failure to do so results in the loss of membership privileges. It requires that supplies be purchased through [REDACTED] or the sponsoring dealer. In addition, it requires that all members own the product that the business corporation manufactures and sells. By promoting the social activities of product users, it improves user satisfaction. By improving user satisfaction, the business corporation benefits by continued sales of its products.

Accordingly, we have determined that you are not organized and operated exclusively for charitable purposes as described in IRC section 501(c)(3). We have also determined that the organization serves the financial interest of [REDACTED]. Thus, you are not organized and operated exclusively for pleasure, recreation, and other nonprofit purposes within the meaning of IRC section 501(c)(7). Tax-exempt status under section 501(c)(3) of the Code as a charitable organization or section 501(c)(7) as a social club is denied.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

[REDACTED]

If you have any questions, you may contact the person whose name, telephone number, and address appears on the top of this letter.

Sincerely,

[REDACTED]

[REDACTED]

District Director

Enclosures
Form 6018
Publication 892